

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

KEDRICK CLARK (# T7712)

PLAINTIFF

v.

No. 4:07CV59-P-B

DWIGHT PRESLEY, ET AL.

DEFENDANTS

MEMORANDUM OPINION

This matter comes before the court on the *pro se* prisoner complaint of Kedrick Clark, who challenges the conditions of his confinement under 42 U.S.C. § 1983. For the purposes of the Prison Litigation Reform Act, the court notes that the plaintiff was incarcerated when he filed this suit. For the reasons set forth below, the instant case shall be dismissed for failure to state a claim upon which relief could be granted.

Factual Allegations

Although the plaintiff is vague in setting forth his own actions that triggered the events in question, he either set a fire in his cell or flooded his cell in Unit 32 at the Mississippi State Penitentiary. As punishment for this rule infraction, the defendants stripped the plaintiff's cell of all property for thirty days. His property was returned to him after thirty days.

Sandin

In view of the Supreme Court's decision in *Sandin v. Conner*, 515 U.S. 472, 115 S. Ct. 2293, 132 L. Ed. 2d 418 (1995), the court concludes that the plaintiff has failed to set forth a claim which implicates the Due Process Clause or any other constitutional protection. As the Court noted, "States may under certain circumstances create liberty interests which are protected by the Due Process Clause [, but] these interests will be generally limited to freedom from

restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force . . . nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” *Id.* 115 S. Ct. at 2300 (citations omitted). In the *Sandin* case, the discipline administered the prisoner was confinement in isolation. Because this discipline fell “within the expected parameters of the sentence imposed by a court of law,” *Id.* at 2301, and “did not present the type of atypical, significant deprivation in which a State might conceivably create a liberty interest,” *id.*, the Court held that neither the Due Process Clause itself nor State law or regulations afforded a protected liberty interest that would entitle the prisoner to the procedural protections set forth by the Court in *Wolff v. McDonnell*, 418 U.S. 539, 41 L. Ed. 2d 935 (1974); *Malchi v. Thaler*, 211 F.3d 953, 958 (5th Cir. 2000) (holding prisoner’s thirty-day loss of commissary privileges and cell restriction due to disciplinary action failed to give rise to due process claim).

The court finds that the plaintiff’s punishment fell “within the expected parameters of the sentence imposed by a court of law,” *Sandin*, 115 S. Ct. at 2301, and “did not present the type of atypical, significant deprivation in which a State might conceivably create a liberty interest.” *Id.* In addition, the plaintiff has not alleged that he suffered physical injury – a requirement to recover monetary damages for mental or emotional injury under the Prison Litigation Reform Act. *Geiger v. Jowers*, 404 F.3d 371 (5th Cir 2005). For these reasons, the instant case shall be dismissed for failure to state a claim upon which relief could be granted. A final judgment consistent with this memorandum opinion shall issue today.

SO ORDERED, this the 30th day of April, 2007.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE